

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

LAWRENCE DALE FOSTER,

Plaintiff,

v.

Case Number 10-12616-BC
Honorable Thomas L. Ludington

RODGER WILLIAMS, Chief West
Branch City Police Department,

Defendant.

_____ /

**ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION
AND DISMISSING PLAINTIFF’S COMPLAINT**

Magistrate Judge Charles E. Binder issued a report and recommendation [Dkt. # 20] on March 1, 2011, recommending that Plaintiff’s constitutional claims be dismissed because he cannot demonstrate that Defendant violated his constitutional rights. Judge Binder further recommended dismissing Plaintiff’s state law claims for lack of subject matter jurisdiction. 28 U.S.C. § 1367(c)(3). Any party may serve and file written objections “[w]ithin fourteen days after being served with a copy” of the report and recommendations. 28 U.S.C. § 636(b)(1). The district court will make a “de novo determination of those portions of the report . . . to which objection is made.” *Id.* Where, as here, neither party objects to the report, the district court is not obligated to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149–52 (1985).

Notably, according to a “remark” noted on the docket by Judge Binder’s chambers, Plaintiff contends that he had not received a copy of Judge Binder’s report as of March 30, 2011. Still, Plaintiff has not moved for additional time to file objections nor has he made any other effort to preserve his right to object to the report, even though more than double the usual time to object has passed. Moreover, the Court has reviewed Judge Binder’s report and agrees that there was probable

cause for the disputed arrest.

Accordingly, it is **ORDERED** that the Judge Binder's report and recommendation [Dkt. # 20] is **ADOPTED**.

It is further **ORDERED** that Defendant's motion for summary judgment [Dkt. # 12] is **GRANTED**.

It is further **ORDERED** that Plaintiff's constitutional claims are **DISMISSED WITH PREJUDICE** and Plaintiff's state law claims are **DISMISSED WITHOUT PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 7, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and on Lawrence Dale Foster, at 343 S 3rd Street, West Branch, MI 48661-1333 by first class U.S. mail on April 7, 2011.

s/Tracy A. Jacobs
TRACY A. JACOBS